

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
FLORENCE DIVISION

Robert L. Mitchell, #14092,

Plaintiff,

vs.

Magistrate Judge Miller, Barbara Morgan,  
Judge Costa Pleicones,

Defendants.

Civil Action No. 4:19-cv-1668-CMC

**OPINION AND ORDER**

This matter is before the court on Plaintiff's Motion for Relief from Judgment or Order under Fed. R. Civ. P. 57 and 60(a).<sup>1</sup> ECF No. 32. Plaintiff argues he is being denied the right to access the court, confront his accusers, to a fair and impartial hearing, and "the equal protection of due process of law." *Id.* at 1. He complains the Magistrate Judge recommended dismissing his "verified complaint with prejudice while denying service of process," and this court adopted the Report. *Id.* at 1-2. He argues the court did not have personal jurisdiction over Defendants, because they were never served, and the court "intentionally" failed to serve them because government personnel "improperly performed their respective duties" in order to deprive Plaintiff of the ability to present his case. *Id.* at 2. He contends the judgment must therefore be vacated.

Plaintiff brought this case *in forma pauperis*, and therefore did not pay a filing fee, pursuant to 28 U.S.C. § 1915. This statute notes "Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court

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<sup>1</sup> Plaintiff purports to bring his motion under Federal Rules of Civil Procedure 57 and 60(a). Rule 57 concerns the granting of declaratory judgments and has no application in this case. Rule 60(a) allows the court to correct a clerical mistake "or a mistake arising from oversight or omission whenever one is found in a judgment, order, or other part of the record." Neither is applicable here.

determines that – the action or appeal . . . fails to state a claim on which relief may be granted; or seeks monetary relief against a defendant who is immune from such relief. *Id.* at § (e)(2)(B)(ii), (iii). Section 1915A states a court “shall” review a complaint in a civil action in which a prisoner “seeks redress from a governmental entity or officer or employee of a government entity.” If the complaint fails to state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief, the court is to “dismiss the complaint.”

As noted by the Magistrate Judge, he undertook such a review and found Plaintiff’s Complaint subject to dismissal because no Defendant is amenable to suit due to judicial and prosecutorial immunity. ECF No. 15 at 3-4. In addition, the Report found Plaintiff failed to state claims for which relief could be granted. This review is required under § 1915A and was properly undertaken by the Magistrate Judge. Because he found, and the court agreed, the Complaint was to be dismissed, service on the Defendants was not necessary.

Accordingly, Plaintiff’s motion for relief from judgment is without merit and is denied.

**IT IS SO ORDERED.**

s/Cameron McGowan Currie  
CAMERON MCGOWAN CURRIE  
Senior United States District Judge

Columbia, South Carolina  
October 27, 2020